

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

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)
UNITED STATES OF AMERICA,)
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Plaintiff,)
)
)
v.) Case No. 1:11-cv-1118-JDB-egb
)
)
SIX ASSORTED FIREARMS AND)
ASSORTED AMMUNITION,)
)
Defendants.)

REPORT AND RECOMMENDATION

On referral to this Court for determination and/or report and recommendation is Plaintiff United States' Motion to Strike Claim of Robert Curran [D.E. 17]. Mr. Curran has not responded.

This is a civil action *in rem* to forfeit firearms pursuant to 18 U.S.C. §924(d)(1). As the United States asserts, these firearms were involved in a knowing violation of 18 U.S.C. §922(g)(1). It appears to this Court that Mr. Robert Curran was personally served with a copy of the Verified Complaint on June 16, 2011, and that he subsequently attempted to file a claim. Thereafter, Mr. Curran was notified by the U. S. Attorney's Office by letter of September 19, 2011, that his filing was legally insufficient since it was not verified under penalty of perjury and additionally Mr. Curran failed to file a separate answer to the complaint [D.E.17-1]. It appears that Mr. Curran received this notice from the United States Attorney as Mr. Curran signed for this notice, acknowledging that the letter was delivered to him by certified mail on September 21, 2011[D.E.17-2]. Mr. Curran has made no further response in this matter.

The Supplemental Admiralty and Maritime Claims rules govern judicial forfeiture proceedings. *United States v. \$267,961.07*, 916 F.2d 1104, 1107 (6th Cir. 1990). Supplemental Rule G(5)(a) requires the claimant to file a claim signed by the claimant under penalty of perjury and supplemental Rule G(5)(b) requires the filing of a timely answer to the complaint. As noted, Mr. Curran has done neither. “Notwithstanding the existence of Article III standing, a claimant’s failure to strictly adhere to [supplemental Rules] precludes the requisite statutory standing to contest a government forfeiture.” *United States v. \$267,961.07* at 1108; *see also United States v. 35 Firearms*, 123 F. Appx. 204, 206 (6th Cir. 2005). As such, the Magistrate Judge recommends that Plaintiff’s Motion be granted and Mr. Curran’s claim be stricken for failure to establish this requisite statutory standing.

Respectfully Submitted,

s/Edward G. Bryant
EDWARD G. BRYANT
UNITED STATES MAGISTRATE JUDGE

Date: **June 25, 2012**

ANY OBJECTIONS OR EXCEPTIONS TO THIS REPORT AND RECOMMENDATIONS MUST BE FILED WITHIN FOURTEEN (14) DAYS AFTER BEING SERVED WITH A COPY OF THE REPORT AND RECOMMENDATIONS. 28 U.S.C. § 636(b)(1). FAILURE TO FILE THEM WITHIN FOURTEEN (14) DAYS MAY CONSTITUTE A WAIVER OF OBJECTIONS, EXCEPTIONS, AND ANY FURTHER APPEAL.